THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.26698 OF 1995

DATED: 6-12-2006

Between:

Reddipalli Apparao died per LRs
Peketi Padmanabharao and others

.. Petitioner

and

Deputy Registrar/ Business Manager,
The East Godavari District Co-operative
Marketing Society Limited, No. B 620,
Kakinada, East Godavari.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.26698 OF 1995

Order:

This writ petition is filed seeking a mandamus declaring the sale of Godown consisting of 11 rooms along with site bearing Door.No.4-2-128, Pithapuram, East Godavari District, by auction through sealed tenders, scheduled to be held on 27-11-1995 in the premises of the East Godavari District Co-operative Marketing Society Limited, Kakinada as arbitrary and illegal and consequently to direct the respondent to sell Room Nos.1 and 3 of the said Godown to the 1st petitioner, Room No.9 to the petitioners 2 and 3, Room Nos. 5 and 6 to the 4th petitioner, Room Nos.8, 10 and 11 to the 5th petitioner and Room No.7 to the petitioners 6 to 11.

It appears, the petitioners are all tenants of 11 rooms of the Godown of the East Godavari District Co-operative Marketing Society Limited, Kakinada since 1962 and they have been paying the rents regularly. While so, the respondent issued the impugned notification dated 16-11-1995 fixing the date of sale of the Godown by auction as 27-11-1995. According to the petitioners, they have acquired right of pre-emption for purchasing the said Godown, which was offered for sale. They are not only eking out their livelihood through the said Godown rooms by establishing business, but they are also meeting out the expenses towards maintenance of the Godown for the last more than forty years. Therefore, the impugned notification issued by the

respondent is arbitrary and illegal.

A detailed counter-affidavit has been filed by the respondent stating that the petitioners are chronic defaulters and they are squatting over the property. Therefore, the respondent intended to sell the property for getting higher amounts for being utilized for the same purpose elsewhere.

Heard both sides.

The fact that the petitioners are the tenants of the Godown since 1962 onwards is not in dispute. The only allegation against them is they are all chronic defaulters and therefore the respondent intended to sell away the Godown rooms by inviting tenders. It is the contention of the petitioners that they are the tenants and if any default was committed by them, they can be evicted by recourse to the due process of law; but there is no necessity to sell the Godown rooms to third parties.

Now, it is more than ten years since the writ petition was admitted. While admitting the writ petition, this court granted interim stay of eviction from the property. I am of the opinion that going into the merits and demerits of the tender notification at this length of time may not serve any purpose. The situation as of now is altered to such an extent that such tender notification issued earlier or the tenders, if any, received thereunder cannot be considered at this length of time. The tender notice automatically stood frustrated.

In view of the above, the respondent is directed not to evict the petitioners without recourse to due process of law. After eviction of the petitioners as per law, the respondent is at liberty to deal with the matter, as it likes. However, this will not prevent the petitioners from participating in the auction, if any such notification is issued for the

purpose of purchasing the Godown rooms.

The writ petition is accordingly disposed of. There shall be no order as to costs.

C.V. RAMULU, J

06-12-2006.

IBL